

Exhibit 90

United States of America ex rel. Ven-a-Care of the Florida Keys, Inc. v. Boehringer Ingelheim Corp. et al.

Civil Action No. 07-10248-PBS

Exhibit to the August 28, 2009 Declaration of James J. Fauci In Opposition To
Corrected Boehringer Ingelheim Corporation and Boehringer Ingelheim Pharmaceuticals, Inc.
Local Rule 56.1 Statement of Undisputed Material Facts
in Support of Their Motion For Summary Judgment



**Boehringer
Ingelheim**

Inter-office memorandum

To: S. Berkle
W. Gerstenberg

Date: November 8, 1999

From: Pricing Committee

Subject: Recommended Pricing: Duraclon®

The Pricing Committee has endorsed the following Wholesale and List Pricing:

Duraclon 500mcg/mL 10 mL vial:

Wholesale Unit Price (WAC)	Suggested List (AWP)
\$233.75	\$280.50

This price is based on current Duraclon price per mcg. (five times the 100mcg. price). This price is comparable to pharmacist prepared (compounded) clonidine intraspinal solutions pricing. The average discounting/rebate percentage assumed is 13%.

Duraclon pricing was developed from a Market Assessment Conjoint performed by Chilton Research in July 1995. To assure pricing validity prior to market introduction, the conjoint data was forwarded to the Palace Healthcare Group for review. The Palace evaluation confirmed the validity of the conjoint data and helped establish the Duraclon price structure. Duraclon pricing has not been an obstacle to product usage despite limited competition from pharmacist compounded intraspinal clonidine solutions.

The attached documents, overview the key findings of Duraclon pricing research and overall hospital acceptance to the above price based on feedback from two focus groups and 13 phone interviews with anesthesiologists and 102 surveys of anesthesiologists attending the American Society of Anesthesiologist Meeting in Orlando October 17-21, 1998. The complete study results are available for review if desired.

Please approve by signing below.

S. Berkle	W. Gerstenberg
-----------	----------------

Pricing Committee:

Gregg Ciarelli Jim King
Mike Leonetti Chris Ferrara
Greg Fulton

Rich Feldman
John Powers
Dan Smith

Jerry Sincich

SUMMARY OF KEY FINDINGS

Duraclon Market Research

Market Research Objectives

- Understand current utilization of injectables for the control of cancer pain (Phase I).
- Use findings in qualitative research to develop a qualitative survey (Phase II) for data gathering at the Annual American Society of Anesthesiology Meeting.
- Test product profile statement with pricing strategies to determine price elasticity and projected usage of the product.
- Validate or revise current sales forecast from external data collected.

Market Research Methodology

Phase I: Two focus groups and 13 phone interviews with anesthesiologist

- 20% of their practice had to be management of chronic pain.
- Most prevalent pain syndrome seen had to be cancer pain.
- Placed minimum recruitment criteria of 25% who are devoted to chronic pain.

Results in Phase I used to develop a quantitative survey for Phase II

Phase II:

- 102 Surveys of anesthesiologist attending the American Society of Anesthesiologist Meeting in Orlando October 17-21, 1998.
- Respondents must have devoted at least 20% of their practice to chronic pain management, and be treated chronic cancer pain.
- Only 10-20% of those queried met these two criteria.

Demographic Findings: Phase I Focus Groups and Interviews

- Respondents devoted 5-100% of their practice to chronic pain management.
- Treat Chronic low back pain most frequently followed by other spinal pain, neuropathic pain, reflex sympathetic dystrophy, herpes zoster, headache, and cancer pain.
- Of the 13 interview respondents, more than 50% of their practice was chronic pain and also treated more chronic cancer pain.

Current Practices: Phase I Qualitative Interviews

- Respondents stated that only a small percentage of patients receiving drugs through epidural or intrathecal administration.
- When using this administration route, the most common drugs delivered are narcotic analgesics (bupivacaine or marcaine).
- Average treatment time by epidural injection is about two weeks. If long term treatment is necessary, chronic pain specialists will use an external or implantable infusion pump for patients with life expectancy greater than six months.
- Use of pumps had a low use among many anesthesiologists (prefer epidural administration) and wide variance existed with chronic pain specialists.

Phase I Results: Qualitative Research

Focus Groups:

- Very low awareness and experience with epidural or intrathecal administration of Duraclon
- Strong reluctance to use Duraclon via. Intrathecal or epidural routes based on the tested profile. This was primarily due to side effects (hypotension in 45% of patients) and lack of experience with infusion pumps.
- Willingness to use – average was only 2-5 on a 10 point scale.
- Extremely negative about intrathecal administration due to fears about complications.

Individual Interviews:

- About 50% already administering clonidine epidurally along with opiates and few have used clonidine intrathecally.
- Reacted more positively to both product profiles with a rating average of 6-8 for epidural and 6-10 for intrathecal.
- Consider both forms of chronic pain including back, cancer, and neuropathic pain.

Phase II Results: Duraclon

500 µg /ml

How valuable would a 500 µg /ml concentration be for management of severe chronic pain? Mean 5.6 on a 10.0 scaleWould you use this intrathecally? 55% - yes

2000 µg /ml

How valuable would a 2000 µg /ml concentration be for management of severe chronic pain? Mean 5.4 on a 10.0 scaleWould you use 500 µg /ml or 2000 µg /ml for acute pain? 46% - yes for cancer, post operative, and back**What % of all severe chronic cancer pain would you use either product?**

	34%
Epidural 500 µg /ml	59%
Intrathecal 2000 µg /ml	41%

What % of all severe chronic back pain would you use either products?

	23%
Epidural 500 µg /ml	60%
Intrathecal 2000 µg /ml	40%

What % of all severe chronic neuropathic pain would you use wither products?

	31%
Epidural 500 µg /ml	62%
Intrathecal 2000 µg /ml	38%

For all your usage of Duraclon 500 µg /ml, what % would be used for:

External pump	46%
Implantable pump	25%

For all your usage of Duraclon 2000 µg /ml, what % would be used for:

External pump	25%
Implantable pump	43%

Pricing: 100 µg /ml = \$50/vial, 500 µg /ml- \$250/vial, 2000 µg /ml = \$1,000/vial

If 500 µg /ml vial priced at \$300/vial = Mean 4.1 likely to use it.If 500 µg /ml vial priced at \$200/vial = Mean 5.8 likely to use it.If 2000 µg /ml vial priced at \$1,250/vial = Mean 3.8 likely to use it.If 2000 µg /ml vial priced at \$750/vial = Mean 5.6 likely to use it.

Current use of Duraclon:

Epidural	Yes	28%	<u>Mean times per month of 7.</u>
	No	72%	
Intrathecal	Yes	9%	<u>Mean times per month of 3.0</u>
	No	91%	